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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/863,023 | 05/23/2001 | Toshiro Mise | | 7278 |

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JONES, TULLAR & COOPER, P.C.
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EXAMINER

MCALLISTER, STEVEN B

ART UNIT PAPER NUMBER

3627

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---|--------------------------------------|--|
| Office Action Summary | Application No. 09/863,023 | Applicant(s) MISE, TOSHIRO | |
| | Examiner Steven B. McAllister | Art Unit 3627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

It is noted that in order to read the claims consistently with 35 USC 101, the "system" claims are interpreted as apparatus claims.

It is also noted that in interpreting the claims as apparatus claims, actions recited by the claims for the apparatus are interpreted as intended use and are treated as such in the 35 USC 102 rejection. However, in order to promote compact prosecution the claims are also treated as if the recitations were limiting in the 103 rejections.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 and 14 are unclear because "movement of a living facility" is unclear. It is not clear whether movement of a living thing is being monitored, or movement in a dwelling is being monitored.

Claim 13 is unclear because "watch the operation watch the movement of a living facility" is unclear.

Claim 15 is unclear because "information data" appears to be redundant.

As to claim 14, the claim recite "and/or" which is indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Vasell et al (6,496,575).

As to claims 13-16, Vasell et al show a home information communication terminal unit connected to an indoor LAN; a service communication server of the service provider; a supervisory server comprising servers operated by the network operator; wherein the recited apparatus are capable of performing there recited tasks.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasell et al.

As to claim 13, Vasell et al show a home information communication terminal unit connected to an indoor LAN; a service communication server of the service provider; a supervisory server comprising servers operated by the network operator; wherein the recited apparatus are capable of performing there recited tasks. Vasell et al do not show stopping normal operation of the terminal unit when an emergency signal is sent to the terminal unit. However, to do so is notoriously old and well known in the art. For instance radios and alarm systems exist which upon a signal indicative of a tornado, cease normal operation and go into emergency operation. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Vasell et al by having the terminal unit go into an emergency mode upon receipt of an indication of emergency conditions from the server.

As to claim 14, Vasell et al show the terminal unit monitoring the operation of a living facility via the LAN. Vasell et al do not explicitly show automatically reporting back during abnormal conditions. However, it is notoriously old and well known to do so. For

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instance, Vasell et al discuss using the system to monitor alarms. It would have been obvious to one of ordinary skill in the art to report back in case of abnormality in order to alert the service provider so that they can respond.

As to claim 15, Vasell et al show temporary memory in the communication terminal unit in which related data on the service being provided and data related to the environment of the house is stored, and that the communications terminal unit sends data back to the supervisory server every predetermined period.

Alternatively, as to claim 15, Vasell et al show temporary memory in the communication terminal unit in which related data on the service being provided and data related to the environment of the house is stored. It does not show that the communications terminal unit sends data back to the supervisory server every predetermined period. However, to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to send out data stored in the unit to the supervisory server periodically in order to provide system status, and to provide backup.

As to claim 16, Vasell et al show all elements except aggregating and recording costs at the supervisory server for services provided by the provider acting through the server. However, to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the apparatus in order to record such charges since it is the supervisory server which controls and interacts with the end users terminal.

Response to Arguments

Applicant's arguments filed 7/12/2004 have been fully considered but they are not persuasive.

Applicant acknowledges amendments made and discussed in the "remarks" section.

It is further noted that the Applicant has not traversed the "old and well known statements" made in the previous Office Action. Therefore, as required by MPEP 2144.03 (C) the subject matter of those statements is held as admitted old by Applicant.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven B. McAllister

Steven B. McAllister
Primary Examiner
Art Unit 3627

STEVEN B. MCALLISTER
PRIMARY EXAMINER